IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

Bail Appl..No. 7130 of 2006()

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AGAINST THE ORDER IN BA.3549/2006
OR No.5/06 of Palakkayam Forest Station, Mannarkkad Range.

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: PETITIONERS:

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1. T.P.MATHAI, AGED 86 YEARS,
S/O.LATE T.M.PAILY, THALAPPILLIL HOUSE,
KANJIRAPUZHA VIA, P.O.PALAKKAYAM,
MANNARKAD TALUK, PALAKKAD DISTRICT.

2. T.P.JOHN, AGED 73 YEARS,
S/O.LATE T.M.PAILY,
THALAPPILLIL HOUSE, KANJIRAPUZHA VIA,
P.O.PALAKKAYAM, MANNARKAD TALUK,
PALAKKAD DISTRICT.

3. T.P.KURIAN, AGED 68 YEAR,
S/O.LATE T.M.PAILY, THALAPPILLIL HOUSE,
KANJIRAPUZHA VIA, P.O.PALAKKAYAM.

4. T.P.JOSEPH, AGED 64 YEARS,
S/O.LATE T.M.PAILY, THALAPPILLIL HOUSE,
KANJIRAPUZHA VIA, P.O. PALAKKAYAM,
MANNARKAD TALUK, PALAKKAD DISTRICT.

5. MARIYAKUTTY,
W/O.T.P.JOSEPH, THALAPPILLIL HOUSE,
KANJIRAPUZHA VIA, P.O.PALAKKAYAM,
MANNARKAD TALUK, PALAKKAD DISTRICT.

6. SANTHOSH JOSE,
S/O.T.P.JOSEPH, THALAPPILLIL HOUSE,

KANJIRAPUZHA VIA, P.O.PALAKKAYAM,
MANNARKAD TALUK, PALAKKAD DISTRICT.

7. SAM JOSE,
S/O.T.P.JOSEPH, THALAPPILLIL HOUSE,
KANJIRAPUZHA VIA, P.O.PALAKKAYAM,
MANNARKAD TALUK, PALAKKAD DISTRICT.

8. GRACE MARIA,
D/O.T.P.JOSEPH, THALAPPILLIL HOUSE,
KANJIRAPUZHA VIA, P.O.PALAKKAYAM,
MANNARKAD TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.M.P.KRISHNAN NAIR

RESPONDENTS:
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1. STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SECRETARY,
FOREST DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. DIVISIONAL FOREST OFFICER,
MANNARKAD.

4. RANGE OFFICER,
MANNARKKAD.

5. DEPUTY RANGER,
PALAKKAYAM FOREST STATION.

BY PUBLIC PROSECUTOR SHRI. A.S. SIVAKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**V.Ramkumar, J.**

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**B.A.No.7130 of 2006**

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**Dated this the 20th day of December, 2006.**

**ORDER**

Petitioners, eight in number, seek anticipatory bail on the allegation that the Forest Officials attached to the Palakkayam Forest Station are attempting to arrest the petitioners in connection with O.R.No.5 of 2006 registered for an offence punishable under Section 27 of Forest Act.

2. The learned Public Prosecutor submitted that the fourth petitioner alone is the accused in the above crime and the other petitioners are not parties in that case. If so, the apprehension of arrest and harassment entertained by the petitioners other than the fourth petitioner is unfounded. In the case of the fourth petitioner, the facts of the case will show that O.R.No.5 of 2006 before the Palayakkam Forest Station of Mannarkkad Range was registered on 7.6.2006 for encroaching upon the forest land, cutting and debarking trees and cultivating the forest land after encroaching into the same. The contention on behalf of the petitioners that the fourth petitioner

cannot be arrested in view of Section 631 of the Forest Act does not appear to be tenable. The said section gives sufficient authority to the Police or the Forest Officials to arrest the petitioner without a warrant upon satisfaction of the conditions mentioned therein. The very fact that the fourth petitioner could not be arrested till now indicates that he has been absconding and evading his arrest. Anticipatory bail cannot be granted in a case of this nature. There is no reason why the fourth petitioner should not surrender before the Magistrate concerned and seek regular bail. Accordingly, if the fourth petitioner surrenders before the Magistrate and files an application for regular bail, the same shall be considered and disposed of preferably on the same day on which it is filed.

With this direction, this application is dismissed.

V.Ramkumar,
Judge.

ess 20/12